

EXHIBIT A

FILED
2ND JUDICIAL DISTRICT COURT
Bernalillo County
12/3/2021 12:55 PM
CLERK OF THE COURT
Luke A Tessman

STATE OF NEW MEXICO
COUNTY OF BERNALILLO
SECOND JUDICIAL DISTRICT COURT

STEVEN GARCIA,

Plaintiff,

v.

No. D-202-CV-2021-06801

ADAM DUNSTAN AND MOUNTAIN
STATES CRANE LLC,

Defendants.

PLAINTIFF'S COMPLAINT FOR NEGLIGENCE AND *RESPONDEAT SUPERIOR*

COMES NOW Plaintiff, by and through his attorneys, Sutten Law Group, LLC (Richard W. Sutten and Anthony J. Chavez II), and for his Complaint for Negligence and *Respondeat Superior* states as follows:

PARTIES AND JURISDICTION

1. At all times material hereto, Plaintiff, Steven Garcia, was a resident of Bernalillo County, New Mexico.

2. Upon information and belief, at all times material hereto, Defendant, Adam Dunstan ("Dunstan") was a resident of Bernalillo County, New Mexico, and an employee of Defendant, Mountain States Crane, LLC ("Mountain States").

3. At all times material hereto Mountain States was a domestic limited liability company operating and doing business in Bernalillo County, New Mexico. Mountain States can be served through its registered agent, Lilian G. Apodaca, Bingham, Hurst & Apodaca, P.C., 2420 Comanche Road, NE, #H-6, Albuquerque, New Mexico 87107.

4. The incident(s) giving rise to this cause of action occurred in Albuquerque, Bernalillo County, New Mexico.

5. This Court has jurisdiction over this matter and the parties hereto, and venue is proper in this Court.

FACTS COMMON TO ALL COUNTS

6. Plaintiff incorporates paragraphs 1 through 5 herein pursuant to Rule 1-010(C) NMRA.

7. On May 18, 2019, Plaintiff, a journeyman union ironworker, was erecting steel at the Raymond G. Murphy Department of Veterans Affairs Medical Center, 1501 San Pedro Drive, SE, Albuquerque, New Mexico 87108.

8. After the last piece of steel had been placed for the day, Plaintiff assisted in the landing of a decking being placed on the building by a crane owned and operated by Mountain States.

9. After the decking was landed on the building, Plaintiff attempted to disconnect the load from the crane boom cable.

10. As Plaintiff was attempting to do so, Dunstan, who was operating the crane, boomed the crane without being signaled by anyone on the building to do so.

11. Dunstan's actions resulted in Plaintiff being struck by the ball of the crane and knocked from the building, causing him to fall approximately 18 to 20 feet.

12. Plaintiff's fall from the building rendered him unconscious and caused him significant injuries including, but not limited to, multiple fractures, tearing of tendons and a shoulder dislocation.

COUNT I

NEGLIGENCE AS TO DUNSTAN

13. Plaintiff incorporates paragraphs 1 through 12 herein pursuant to Rule 1-010(C) NMRA.

14. At all times material hereto, Dunstan owed a duty to exercise ordinary care for the safety of other workers on the job site, including Plaintiff.

15. Dunstan breached his duty of care to Plaintiff through his actions outlined in the preceding paragraphs including, but not limited to, moving the crane without being advised it was safe to do so.

16. As a direct and proximate result of Dunstan's breach of his duty, Plaintiff was injured and suffered damages.

COUNT II

RESPONDEAT SUPERIOR AS TO MOUNTAIN STATES

17. Plaintiff incorporates paragraphs 1 through 16 herein pursuant to Rule 1-010(C) NMRA.

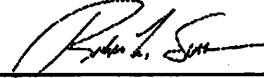
18. Upon information and belief, Dunstan's negligent operation of the crane was done in the course and scope of his employment with Mountain States.

19. Accordingly, Plaintiff has direct claims against Mountain States for Dunstan's negligent conduct under the doctrine of *respondeat superior*.

WHEREFORE Plaintiff prays for judgment against Defendants in an amount to be determined at trial and for such other and further relief as is just and proper.

Respectfully submitted,

SUTTEN LAW GROUP, LLC



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COURT-ANNEXED ARBITRATION CERTIFICATION

COMES NOW Plaintiff, by and through his attorneys, Sutten Law Group, LLC (Richard W. Sutten and Anthony J. Chavez II), and pursuant to the Second Judicial District Local Rules, Rule LR2-603, certifies he seeks relief of more than \$25,000.00, exclusive of punitive damages, interest, and attorneys' fees.

Respectfully submitted,

SUTTEN LAW GROUP, LLC



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